

TRUST ACCOUNT

Record Keeping Guide



**ARKANSAS
REAL ESTATE COMMISSION**

August 2011

The Arkansas Real Estate Commission provides this information as a sample guide about real estate Trust Account maintenance. The License Law and Regulations do not require that Principal Brokers use any particular accounting system as long as they properly account for funds belonging to others. In Commission Hearings, Trust Account problems are considered very serious and could subject the Principal Broker of the firm to sanctions which could result in license suspension or revocation.

If you have any questions about this material, contact the Arkansas Real Estate Commission at:

612 South Summit Street

Little Rock, AR 72201-4740

Phone: 501.683.8010

Fax: 501.683.8020

Email:

Administration: arec@arkansas.gov

Investigations: arecinv@arkansas.gov

Licensing: arecllc@arkansas.gov

Website:

www.arec.arkansas.gov

The Trust Account Is Short!

Who Is Responsible?

A Commission investigator is in your office conducting a routine Trust Account examination. The reconciled Trust Account bank statement balance doesn't agree with the Trust Account checkbook's balance. Neither agrees with pending transactions, rents received not disbursed, and security deposit balances (moneys belonging to others). *The Trust Account Is Short!*



The Principal Broker looks confused, puzzled and embarrassed because he doesn't know how or why the Trust Account is short. The Principal Broker confides to the Investigator that an unlicensed person is responsible for handling the Trust Account. Another unlicensed person is responsible for collecting rent (most in cash) and depositing same into the Trust Account. The Principal Broker mumbles that he had complete faith in those unlicensed persons and had not reviewed the Trust Account bank statement and supporting records for some time. *The Trust Account Is Short - Who Is Responsible?*

This has become a frequent scenario at Commission hearings because the Principal Broker hasn't paid attention to his/her Trust Account responsibilities.

Don't let this happen to you!

Remember these Regulations for good Trust Account control and record keeping:

1. **The Principal Broker is solely responsible and accountable for all trust funds received by the firm and all deposits to and disbursements from the Trust Account.** [Reg. 10.8(c)]
2. **A Principal Broker shall not commingle trust funds** with personal funds or other non-trust funds and shall not deposit or maintain trust funds in a personal account or any kind of business account except a specifically designated Trust Account. [Reg. 10.8(b)]
3. **No later than three (3) working days** following the execution of a real estate contract by the seller and buyer, all trust funds shall be either deposited in the Trust Account or delivered to an escrow agent. [Reg. 10.8(g)(1)] (Amended 01/01/05)
4. **All other funds delivered to the Broker** pending performance of any act shall be, no later than three (3) working days, either deposited in the Trust Account or delivered to an escrow agent. [Reg. 10.8(g)(1)]
5. **All security deposits** made under a rental or lease agreement shall be deposited in the Principal Broker's Trust Account. [Reg. 10.8(h)(1)]
6. **The Principal Broker** shall at all times keep detailed records of all funds coming into the Broker's possession and all disbursements made by the Broker. [Reg. 10.8(g)(1)]
7. **All Trust Account bank statements** shall be reconciled in writing at least monthly and balanced to the total amount of trust funds deposited in the account which have not been disbursed. [Reg. 10.8(g)(2)]
8. **A Principal Broker** shall within a reasonable time account for or remit any moneys coming into his possession which belong to others. [Arkansas Code Annotated § 17-42-311(6)]
9. **All trust fund records**, including bank reconciliations, shall be open to inspection by and made available to the investigative staff of the Commission. [Reg. 10.8(g)(3)]

10. **The Principal Broker** may maintain the Broker's own funds in a Trust Account only when the funds are clearly identified as the Broker's deposit, and only for the following purposes:

(a) If the bank designates a specific minimum balance that must be maintained; or

(b) If the bank requires a service charge to be paid for the account, the Broker may maintain a reasonable amount to cover that service charge, provided that such amount shall not exceed the total of six (6) months service charges. [Reg. 10.8(d)]

Records necessary to support proper Trust Account control and record keeping are:

- **Deposit slips, receipts or other documentation** which identifies each transaction, the date and the amount of each deposit into the Trust Account, and the names of parties involved in the transaction represented by the deposit.
- **Complete records of all moneys received and disbursed** in connection with a real estate transaction. Records should include a cash receipts and disbursement journal or checkbook record which properly describes the transaction entries and includes a current running balance, and a client ledger which properly describes receipt of funds and disbursement of funds received as a result of that transaction.
- **Monthly Trust Account bank statement reconciliation** balanced to the total amount of trust funds deposited into the Trust Account which have not been disbursed. (If individual client ledgers are maintained, the total balance of all client ledgers plus any Broker funds in the Trust Account should equal the reconciled Trust Account bank statement balance.)

Sample Trust Account Bookkeeping Record

NOTES:

A. The word “TRANSACTION” is used here to identify an individual sale or a property management (rental) activity.

B. Each transaction has been designated a number, i.e., T-1, on the appropriate transaction ledger sheet to show how the entry is posted from the cash journal to the individual ledger sheet.

TRANSACTIONS

1. On January 1, Broker opens a Trust Account and deposits \$100, which is the minimum balance designated by the bank that must be maintained to keep the account open. (January 1, entry in cash journal, which is posted to B-1)

2. On January 3, Mr. Seller accepted the offer received from Mr. Buyer to purchase Mr. Seller’s property, #1 Green Street. \$1,000 was received as earnest money. (January 3, entry in cash journal, which is posted to T-1)

3. On January 4, Broker received from Mr. Tenant \$600 in connection with rental property at 12 N. Main St. belonging to Mr. Landlord. \$300 is to apply as a security deposit and the rest of the funds apply as January rent. The management contract provides for 10% commission and repair payments to be deducted from landlord’s proceeds. (January 4, entry in cash journal, which is posted to T-2)

4. On January 11, Broker paid ABC Plumbing \$50 to unstop drain on Mr. Landlord’s rental property at 12 N. Main St., Check #11. (January 11, entry in cash journal, which is posted to T-2)

5. On January 15, Broker forwarded rent proceeds check for 12 N. Main St. to Mr. Landlord, check #12. (January 15, entry in cash journal, which is posted to T-2)

6. On January 15, Broker paid the property management commission due on Mr. Landlord's rental property at 12 N. Main St., check #13. (January 15, entry in cash journal, which is posted to T-2)

7. On January 27, Broker received from First Security Bank 410,000 to close Buyer-Seller transaction for sale of #1 Green Street. (January 27, entry in cash journal, which is posted to T-1)

8. On January 27, the following disbursement resulted from closing the Buyer-Seller transaction of #1 Green Street:

Check

<u>No.</u>	<u>Amount</u>	<u>Payee</u>	<u>For</u>
14	\$10	Revenue Department	Revenue Stamps
15	\$25	Roach Termite Co.	Inspection
16	\$20	Bill's Electric Co.	Inspection
17	\$50	Swindle & Swindle	Deed Preparation
18	\$75	H. Roy, Attorney	Title Search
19	\$8,820	Mr. Seller	Net Proceeds
20	\$2,000	Your Real Estate Co.	Commission

(January 27 entries in cash journal, which are posted to T-1)

9. On January 29, Seller accepted the offer received from Buyer to purchase Seller's property, #5 Diamond. \$5,000 was received as earnest money. (January 29, entry in cash journal, which is posted to T-3)

10. On January 31, the trial balance is prepared. The total of the balances remaining on the individual transaction ledger sheets and the broker's fund sheet should equal the cash journal ending balance, which should equal the reconciled bank statement balance.

Remember, regardless of the type of record keeping system established, the information concerning deposits and withdrawals must be recorded and posted consistently to be valid and up-to-date. Further, remember that it is the responsibility of the Principal Broker for the firm to maintain detailed records of all funds coming into his/her possession and of all disbursements.

SAMPLE TRUST ACCOUNT RECORDS

CASH JOURNAL

Your Real Estate Company Cash Journal Trust Account

Date of Deposit or Withdrawal	Purpose of Deposit or Withdrawal	Check #	Ledger #	Amounts Paid Debit	Amounts Received Credit	Balance
1-1	Broker's funds - Open Account		B-1		100	100
1-3	Buyer's earnest money - #1 Green Street		T-1		1,000	1,100
1-4	Tenant Security Deposit and Jan. Rent - 112 N. Main		T-2		600	1,700
1-11	ABC Plumbing - 12 N. Main	11	T-2	50		1,650
1-15	Landlord - Jan. Rent 12 N. Main	12	T-2	220		1,430
1-15	Your Real Estate Co. Mgt. Fee - 12 N. Main	13	T-2	30		1,400
1-27	Closing Funds - Buyer / Seller - #1 Green St.		T-1		10,000	11,400
1-27	Rev. Dept. - Stamps - #1 Green Street	14	T-1	10		11,390
1-27	Roach Termite Inspection - #1 Green St.	15	T-1	25		11,365
1-27	Bill's Electric - Inspection - #1 Green Street	16	T-1	20		11,345
1-27	Swindle & Swindle - Deed - #1 Green St.	17	T-1	50		11,295
1-27	J. Roy, Atty. - Title Search - #1 Green St.	18	T-1	75		11,220
1-27	Seller Proceeds - #1 Green Street	19	T-1	8,820		2,400
1-27	Your Real Estate Co. - Commission - #1 Green St.	20	T-1	2,000		400
1-29	Buyer's earnest money - #5 Diamond		T-3		5,000	5,400

BROKER'S FUND LEDGER SHEET

Broker's Funds

Ledger No. B-1

Date of Deposit or Withdrawal	Purpose of Deposit or Withdrawal	Check #	Amounts Paid Debit	Amounts Received Credit	Balance
1-1	Broker's funds - Open account			\$100	\$100

BUYER-SELLER LEDGER SHEET

Buyer-Seller Transaction #1 Green Street

Ledger No. T-1

Date of Deposit or Withdrawal	Purpose of Deposit or Withdrawal	Check #	Amounts Paid Debit	Amounts Received Credit	Balance
1-3	Buyer's earnest money			\$1,000	\$1,000
1-27	Closing funds - First Security			10,000	11,000
1-27	Revenue Dept. - Stamps	14	\$10		10,990
1-27	Roach Termite - Inspection	15	25		10,965
1-27	Bill's Electric - Inspection	16	20		10,945
1-27	Swindle & Swindle - Deeds	17	50		10,895
1-27	H. Roy, Attorney - Title Search	18	75		10,820
1-27	Seller - Proceeds	19	8,820		2,000
1-27	Your Real Estate Co. - Commission	20	2,000		-0-

TENANT-LANDLORD LEDGER SHEET

Tenant-Landlord Transaction

12 N. Main Street

Ledger No. T-2

Management Fee - 10%

Rent - \$300

Security Deposit - \$600

Date of Deposit or Withdrawal	Purpose of Deposit or Withdrawal	Check #	Amounts Paid Debit	Amounts Received Credit	Balance
1-4	January rent & security deposit			\$600	\$600
1-11	ABC Plumbing - Drain clogged	11	\$50		\$550
1-15	Landlord - January rent	12	\$220		\$330
1-15	Your Real Estate Company - Fee	13	\$30		\$300

BUYER-SELLER LEDGER SHEET

Buyer-Seller Transaction

#5 Diamond

Ledger No. T-3

Date of Deposit or Withdrawal	Purpose of Deposit or Withdrawal	Check #	Amounts Paid Debit	Amounts Received Credit	Balance
1-29	Buyer's earnest money			\$5,000	\$5,000

TRIAL BALANCE OF TRANSACTION

Ledger Sheet Balances

January 31

Date of Deposit	Funds in the Trust Account	Ledger #	Balance
1-1	Your Real Estate Company	B-1	\$100
1-4	Tenant security deposit 12 N. Main	T-2	\$300
1-29	Buyer earnest money - #5 Diamond	T-3	\$5,000
	TOTAL		<u>\$5,400</u>

Bank Reconciliation

A bank reconciliation should be performed each month.

Monthly Audit Procedures

At the close of each month, the Broker receives a bank statement from the bank where the Broker maintains his Trust Account. At that time, the Broker must reconcile the bank balance with his bookkeeping records and review the status of all items remaining in trust and escrow accounts as of that date. It is customary for banks to provide a form for reconciliation of the bank account on the back side of the monthly bank statement. Using the previous illustrations, the procedures are as follows:

Bank Reconciliation January 31

1-28	Balance per bank statement	\$ 525
	Plus outstanding deposits: (Deposits received, recorded on Broker's books, but not credited on bank statement)	
1-29	Earnest money deposited - #5 Diamond	<u>\$5,000</u>
	TOTAL DEPOSITS	\$5,525
	Less outstanding checks: (Checks issued but not reflected on bank statement)	
1-27	CK # 17 - Swindle & Swindle - #1 Green	\$50
1-27	CK # 18 - H. Roy, Attorney - #1 Green	<u>\$75</u>
	TOTAL CHECKS	\$ <u>125</u>
	Reconciled bank balance must agree with cash journal, i.e., checkbook balance, and transaction sheets ledger, i.e., pending transactions.	\$5,400

Reconciliation is a function that should be performed or supervised by the Broker. If someone else in the Broker's office is doing the work, he or she should understand the license law and the Broker's responsibility in maintaining trust records as required by the Commission. While the Broker may delegate the authority to do the work, he cannot relieve himself of the responsibility for its being done properly. He should, however, review the reconciliation to ensure its accuracy and to ensure that funds are accounted for. If Trust Account funds are short, the Principal Broker is responsible, regardless of the source of the shortage.

TRUST ACCOUNT RECORD KEEPING GUIDE



**Published by the
ARKANSAS REAL ESTATE COMMISSION**

**612 South Summit Street
Little Rock, AR 72201-4740**

Phone: 501.683.8010

Fax: 501.683.8020

Email: Administration: arec@arkansas.gov

Investigations: arecinv@arkansas.gov

Licensing: arecllc@arkansas.gov

Web Site: www.arec.arkansas.gov

**If you would like additional free copies of the *Trust Account
Record Keeping Guide*, please contact the AREC.**

August 2011